

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	File No.: EB-10-DV-0147
Best Western Rambler)	
)	Citation No.: C201132800001
Walsenburg, Colorado)	
)	
)	

CITATION

EXCEEDING SIGNAL LEAKAGE LIMITS IN AERONAUTICAL BANDS

Adopted: November 17, 2010

Released: November 19, 2010

By the District Director, Denver District Office, Western Region, Enforcement Bureau:

I. INTRODUCTION

1. This is an official **CITATION** issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended (“Act”),¹ to Best Western Rambler for exceeding signal leakage limits in aeronautical frequency bands in violation of Section 76.605(a)(12) of the Commission’s Rules (“Rules”).²

2. Best Western Rambler should take immediate steps to come into compliance and to avoid any recurrence of this misconduct. As explained below and as provided in the Communications Act, future violations of the Commission’s Rules in this regard may subject your company to substantial monetary penalties, seizure of equipment, and criminal sanctions.

II. BACKGROUND

3. Investigation by the Enforcement Bureau's Denver Office revealed that on June 21, 2010, Best Western Rambler utilized a non-cable, multichannel video programming distributor (“MVPD”) system located at 457 US Highway 85-87, in Walsenburg, Colorado, which was emitting radio carrier signals above allowed limits on frequency bands utilized by aeronautical services. At the time of the inspections, the Denver agent conducted field strength measurements near Unit 19 on the Best Western Rambler property west of US Highway 85-87, but over three meters from the source, on the frequency 121.2625 MHz and measured an emission of 218 microvolts on June 21, 2010.

¹ 47 U.S.C. § 503(b)(5).

² 47 C.F.R. § 76.605(a)(12).

III. APPLICABLE LAW AND VIOLATIONS

4. The Commission's Rules provide that MVPDs, both cable and non-cable, that transmit carriers with certain characteristics within frequency bands of 108-137 MHz and 225-400 MHz must comply with specific technical requirements delineated in the Rules in order to avoid interference to other licensed operations, including aeronautical systems operating in these frequency ranges. In particular, Section 76.610 of the Rules provides that all MVPDs (cable and non-cable) transmitting carriers or other signal components carried at an average power level equal to or greater than 10^{-4} watts across a 25 kHz bandwidth in any 160 microsecond period, at any point in the cable distribution system in the frequency bands 108-137 and 225-400 MHz for any purpose must comply with, among others, Section 76.605(a)(12) of the Rules.³ Best Western Rambler is required to comply with this Rule because the MVPD system at its motel property in Walsenburg, Colorado, transmits carriers at an average power level equal to or greater than 10^{-4} watts across a 25 kHz bandwidth in any 160 microsecond period and carries signals in the 108-137 MHz aeronautical band. Section 76.605(a)(12) of the Rules provides that “[a]s an exception to the general provision requiring measurements to be made at subscriber terminals, and without regard to the type of signals carried by the cable television system, signal leakage from a cable television system shall be measured in accordance with the procedures outlined in § 76.609(h) and shall be limited as follows: Over 54 MHz up to and including 216 MHz – 20 micro-volts per meter, measured at 3 meters.”⁴

5. On June 21, 2010, an investigation by the Denver Office revealed that Best Western Rambler, in Walsenburg, Colorado, utilized a non-cable, MVPD system which was emitting radio carrier signals above allowed limits on frequency bands utilized by aeronautical services. Specifically, the Denver agent conducted field strength measurements near Unit 19 on the Best Western Rambler property west of US Highway 85-87, but over three meters from the source, on the frequency 121.2625 MHz and measured an emission of 218 microvolts. The signal leakage emitted from the MVPD system utilized by Best Western Rambler violated Section 76.605(a)(12) of the Rules.⁵

IV. REQUEST FOR INFORMATION

6. Pursuant to Sections 4(i), 4(j), and 403 of the Act,⁶ Best Western Rambler is directed to provide the information specified herein, within twenty (20) days after the release date of this Citation.

- a. Descriptions of the specific action(s) that have been taken to correct the violation and preclude recurrence. Include a time line for completion of pending corrective action(s).

V. FUTURE COMPLIANCE

7. If, after receipt of this Citation, Best Western Rambler violates the Communications Act or the Commission's Rules by engaging in conduct of the type described herein, the Commission may impose monetary forfeitures of up to \$16,000 for each such violation or each day of a continuing violation

³ 47 C.F.R. § 76.610.

⁴ 47 C.F.R. § 76.605(a)(12).

⁵ 47 C.F.R. § 76.605(a)(12).

⁶ 47 U.S.C. §§ 154(i), 154(j), 403.

and up to \$112,500 for any single act or failure to act.⁷ In addition, violations of the Act or the Rules can result in seizure of equipment through *in rem* forfeiture actions, as well as criminal sanctions, including imprisonment.⁸

8. Best Western Rambler may respond to this Citation within twenty (20) days after the release date of this Citation either through (1) a personal interview at the closest FCC office, or (2) a written statement. Any written statements should specify what actions have been taken by Best Western Rambler to ensure that it does not violate the Commission's Rules governing signal leakage limits in the future. All responses should be addressed to Federal Communications Commission, 215 S. Wadsworth Blvd., Suite 303, Lakewood, Colorado, 80226. Please reference file number EB-10-DV-0147 when corresponding with the Commission.

9. Under the Privacy Act of 1974, any statement or information provided by you may be used by the Commission to determine if further enforcement action is required.⁹ Any knowingly or willfully false statement, or concealment of any material fact, made in reply to this Citation is punishable by fine or imprisonment.¹⁰ Please also note that Section 1.17 of the Rules requires that you provide truthful and accurate statements to the Commission.¹¹

VI. CONTACT INFORMATION

10. The closest FCC Office is the Denver Field Office in Denver, Colorado. You may contact this office by telephone, (303)231-5212, to schedule a personal interview, which must take place within twenty (20) days after the release date of this Citation.

11. Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need including as much detail as you can. Also include a way we can contact you if we need more information. Please allow at least five (5) days advance notice; last minute requests will be accepted, but may be impossible to fill. Send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau:

For sign language interpreters, CART, and other reasonable accommodations:
202-418-0530 (voice), 202-418-0432 (tty);

For accessible format materials (braille, large print, electronic files, and audio format):
202-418-0531 (voice), 202-418-7365 (tty).

⁷ See 47 U.S.C. § 401, 501, 503; 47 C.F.R. § 1.80(b)(3). This amount is subject to further adjustment for inflation (*see id.* § 1.80(b)(5)), and the forfeiture amount applicable to any violation will be determined based on the statutory amount designated at the time of the violation.

⁸ See 47 U.S.C. § 510.

⁹ See Privacy Act of 1974, 5 U.S.C. § 552a(e)(3).

¹⁰ See 18 U.S.C. § 1001 *et seq.*

¹¹ 47 C.F.R. § 1.17 (“... no person subject to this rule shall; (1) In any written or oral statement of fact, intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading; and (2) In any written statement of fact, provide material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.”)

VII. ORDERING CLAUSES

12. **IT IS ORDERED** that a copy of this Citation shall be sent both by First Class U.S. Mail and Certified Mail, Return Receipt Requested to Best Western Rambler at its address of record.

FEDERAL COMMUNICATIONS COMMISSION

Nikki P. Shears
District Director
Denver District Office
Western Region
Enforcement Bureau